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SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NASSAU : CRIMINAL TERM PART 47

-----X Indictment
THE PEOPLE OF THE STATE OF NEW YORK, : No. 1050N-15
:
-against- : NYSID No.
: 13048712P
RAY ROSS, :
: CRSXCONCH2
Defendant. :
-----X Sentence

June 30, 2016

262 Old Country Road
Mineola, New York

B E F O R E:

HONORABLE TERENCE P. MURPHY,
Acting Supreme Court Justice

A P P E A R A N C E S:

HON. MADELINE SINGAS
Nassau County District Attorney
For the People
BY: ANTHONY R. PERRI, ESQ.,
Assistant District Attorney
of Counsel.

SCOTT B. ZERNER, ESQ.
Attorney for Defendant
277 Broadway - Suite 408
New York, New York 10007

* * *

LISA H. WINKLER
Senior Court Reporter

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1 THE CLERK: On the sentencing calendar,
2 indictment 1050N of '15, People versus Ray Ross.

3 Mr. Ross, step up with your attorney.
4 Appearances for the People.

5 MR. PERRI: Assistant District Attorney
6 Anthony Perri. Good morning, your Honor.

7 THE COURT: Good morning.

8 THE CLERK: Representing Mr. Ross.

9 MR. ZERNER: Scott Zerner, Z-E-R-N-E-R,
10 277 Broadway, Suite 408, New York, New York, for
11 Mr. Ross. Good morning, your Honor.

12 THE COURT: Good morning.

13 THE CLERK: Sir, you are Ray Ross; is that
14 correct?

15 THE DEFENDANT: Yes, sir.

16 THE CLERK: Mr. Ross, you appear here with
17 your attorney, Mr. Zerner, for sentence; is that
18 correct, sir?

19 THE DEFENDANT: Yes, that's correct.

20 THE CLERK: Counsel, is your client ready for
21 sentencing?

22 MR. ZERNER: He is, your Honor. I do have
23 three more letters that I'd like to provide to your
24 Honor. They were only delivered to me in the last 24
25 hours. I have copies.

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1 This is for the Judge. This is for
2 Mr. Perri.

3 THE CLERK: Do People wish to be heard before
4 sentence is imposed?

5 MR. PERRI: Yes, your Honor. The People did
6 serve notice there would be two victim impact
7 statements from the mother of the victim, as well as
8 the child. They decided to do that in the form of a
9 letter, which I ask to read into the record.

10 THE COURT: Very good.

11 MR. PERRI: The first is from Ms. Sarita
12 Johnson, addressed to the Court.

13 Dear Judge Murphy, I am writing you as the
14 mother of Millinia Johnson, who was the victim in this
15 case.

16 What Ray Ross did to my daughter affected her
17 emotionally. I feel that the trauma that she
18 experienced has caused her to be fearful, closed up,
19 and still unable to fully heal. Though she is still
20 social, there are a lot of things underneath that she
21 still deals with. There is a wall from this
22 experience. She is closed up and melancholy or
23 depressed below the surface. She is unable to trust
24 other people to work through what happened to her.

25 As a family, we are also now less trusting of

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1 people. It has shocked and devastated us. We are
2 still trying to fully absorb what took place in our
3 home, and just trying to get through it day by day.

4 Going to trial in this case was for my
5 daughter extremely stressful. Reliving the accounts of
6 what took place was mortifying for her. It was
7 emotionally taxing to bring it all up, a series of
8 horrible experiences, especially for a child, given the
9 sexual nature of the crimes.

10 Putting her through the battery of
11 cross-examination questions and making a child believe
12 that she should be distrusted was extremely painful and
13 difficult. No mother wants her daughter to go through
14 this, but I am proud of her for standing up for herself
15 and telling the jury what happened.

16 Instead, the defendant never took
17 responsibility for his actions, and it took a jury
18 convicting him of a felony to hold him accountable.
19 Therefore, I believe that he deserves the maximum
20 punishment allowed. Years in prison will gave him time
21 to appreciate what he did to Millinia, to really think
22 about his crimes, how it affects a young person's life
23 to be sexually abused by someone she trusted.

24 Ray Ross betrayed her and our family. It is
25 sickening that he would attempt to do something like

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1 that to a 12-year-old girl who admired him.

2 Sentencing the defendant to prison will also
3 give us peace, knowing we are safe, and that Millinia
4 can grow up without the defendant in her life. I think
5 it is also possible that Ray Ross would do this again
6 to another girl if he had the chance. So I ask the
7 Court to sentence Ray Ross to the maximum amount of
8 jail allowed.

9 I thank the Court for reading my letter and
10 for considering my thoughts.

11 Sincerely, Ms. Sarita Johnson.

12 THE COURT: Thank you.

13 MR. PERRI: The second letter, your Honor, is
14 from Millinia Johnson.

15 Dear Judge Murphy, I am writing you to tell
16 the Court what my feelings are about Ray Ross's
17 sentencing.

18 What Ray Ross did to me was very wrong and
19 stopped me from having a normal childhood. No girl
20 should be put in the position he caused me to be in. I
21 was too young to make adult choices. He convinced me
22 that I loved him, which was wrong.

23 I am glad that I testified at the trial. It
24 was the first step in putting this experience behind
25 me. But it was difficult because of how awkward it was

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1 to have Ray Ross staring at me as I was talking about
2 what happened. I also felt embarrassed to tell the
3 jury, a bunch of strangers, all the sexual acts he did
4 to me and he had me do. The mean tone of the defense
5 lawyer when he questioned me also made everything
6 worse.

7 Before Ray Ross started sexually abusing me,
8 I thought of him like an uncle, but after hundreds of
9 times of him abusing me and now realizing it was wrong,
10 he is just a criminal who used me to get the perverted
11 stuff that he wanted.

12 Ray Ross touched my vagina, my breasts, and
13 my butt. He put his mouth on my vagina. He had me
14 touch his penis, and he rubbed his penis on my butt and
15 ejaculated on me. He did these things to me many
16 times.

17 Because of what he did, I am asking you to
18 sentence him to the longest time in jail possible.
19 What the defendant did affected not just me, but my
20 whole family. We are all more distant now. I also
21 worry that he would do this to another girl if he had a
22 chance, so it is important that Ray Ross also be a sex
23 offender.

24 Thank you for reading my letter.

25 Sincerely, Millinia Johnson.

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1 Your Honor, the People would recommend to the
2 Court that the defendant be sentenced, upon his
3 conviction on the Class D violent felony, course of
4 sexual conduct against a child in the second degree, to
5 the maximum sentence allowed by the law, seven years.

6 People's recommendation to the Court is
7 based, first, on the fact that the defendant could have
8 spared the victim. He could have taken ownership of
9 his facts. He could have taken a plea to charges to
10 spare her from the pain of having to testify about the
11 embarrassing and emotionally devastating acts that were
12 perpetrated against her in open court before a jury in
13 the public.

14 In this testimony, your Honor, that was
15 corroborated, the text messages and phone records, she
16 described hundreds of incidents of oral sex, with the
17 defendant rubbing his penis on her buttocks. Defendant
18 ejaculated on her, and she described to the Court the
19 defendant's semen's appearance and its temperature at
20 the time of the actual act.

21 What she described to the Court more than
22 satisfied the requirement of the D felony sex abuse --
23 course of sexual conduct against a child in the second
24 degree. The length of time she described to the Court
25 more than exceeded the minimal times required by that

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1 statute.

2 In this case, your Honor, the defendant was
3 the sole participant. People's position is, there are
4 no mitigating factors present that would warrant
5 anything but an upstate period of incarceration.

6 Secondly, your Honor, the Court should take
7 into consideration the defendant himself, though he did
8 not have to, chose to take the stand. And his
9 testimony, People would submit to the Court, was, and
10 the jury found it to be, incredible.

11 Defendant sat on the stand and testified that
12 he denied only the text messages -- out of all the text
13 messages put before him, only those text messages that
14 involved suggestions of sexual acts, specifically the
15 word smashing, but acknowledged all other texts were
16 sent by him, except for those.

17 He also testified on the stand, his texting
18 and calling the victim at all hours of the day or night
19 was perfectly normal. He claimed the texts that your
20 Honor was able to view and the jury viewed, he claimed
21 they are all part of him trying discipline a child.

22 His statements were completely disingenuous,
23 show a lack of respect to the oath, show a lack of
24 respect to the Court, and should be taken into
25 consideration by the Court in sentencing the defendant.

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1 In light of the statements by the victim and
2 her mother, in light of the allegations, testimony in
3 court that was corroborated, the People recommend to
4 the Court the defendant be sentenced to the maximum
5 amount of time under law of seven years, as well as a
6 stay-away order of protection and registration pursuant
7 to statute, your Honor.

8 THE COURT: All right.

9 THE CLERK: Anything further, People?

10 MR. PERRI: No.

11 THE CLERK: Does counsel wish to be heard?

12 MR. ZERNER: Thank you very much, your Honor.

13 Your Honor, I have many things to say, and
14 when I am done speaking, my client would like to speak
15 to the Court as well.

16 For almost the entire month of February, we
17 tried this case in front of your Honor, Mr. Perri and
18 myself. We heard from a multitude of witnesses, 12
19 different witnesses, and you heard very contrasting
20 testimony about what happened, if it happened, when it
21 happened, and what level there was to believe what, if
22 anything, happened between my client and the
23 complainant in this case.

24 Your Honor, it sounds that, according to the
25 letters that Mr. Perri has read into the record, that

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1 one of the problems that the complainant and her
2 mother, and perhaps the People as well, have is that my
3 client exercised his rights under the United States
4 Constitution and under the United States Bill of
5 Rights. They were not pleased that my client asserted
6 his Fourth, Fifth, and Sixth Amendment rights in this
7 courthouse.

8 Your Honor obviously understands, my client
9 had the right to demand that his accuser appear before
10 him and before a jury of his peers. That's what
11 happened. My client should not be punished for
12 availing himself of the United States Constitution, and
13 the People should not implore the Court to ask for a
14 maximum sentence. That is what is disingenuous.

15 My client is a 56-year-old man who has never
16 been charged with a crime. 56 years old. He's been an
17 adult for 40 years. Never been charged with a crime
18 until now. He was charged with these crimes, and the
19 jury came back with a not-guilty verdict on the top
20 count and a guilty verdict on the lesser counts.

21 Your Honor obviously has a huge amount of
22 latitude in this situation. Combining the fact that my
23 client has no convictions with the fact that the
24 highest level conviction here was a D, as in dog, D
25 felony, your Honor has the complete and total latitude

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1 to issue what sentence you think is appropriate.

2 Now, your Honor, you see a multitude of
3 people in the back of the courtroom, and almost all of
4 these people that are here are here for Ray Ross. You
5 heard from some of them during the course of the trial.
6 Others were prepared to testify and your Honor ruled,
7 either for expediency sake or for duplicative sake --
8 and I readily admit, I can be duplicative and probably
9 will be during the course of this speech to your
10 Honor -- that some of those people would not be heard.

11 But I ask you to think to yourself, who are
12 all these people? And you heard, and I know you will
13 recall, that this is a blended family that we are
14 hearing about, that we were hearing about, and that
15 still exists here.

16 You heard testimony that my client provided
17 food as well as entertainment not just to the
18 complainant here, but to her sisters, who you never
19 heard testify, and that his actions, not in any kind of
20 devious way, but in a kind, avuncular way, to use the
21 uncle term that's already come up, he included several
22 of the children of Ms. Sarita Johnson in his life, and
23 these people, young adults, as well as his children,
24 his biological children, spent time together at movies,
25 at the aquarium, at the beach, at the park, wherever.

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1 And you heard testimony that my client is a
2 huge, huge influence on not just his own children, who
3 are here in the courtroom and have provided letters to
4 your Honor, not just to his current long-time paramour,
5 the aunt of the complainant --

6 And please remember that the aunt of the
7 complainant testified before your Honor, before the
8 jury, when we tried the case back in February. She is
9 and always has been with Mr. Ross. She does not
10 believe the allegations that her niece has put forward.
11 She brought forth to you and to the jury reasons that
12 her sister would lie and that her sister would put her
13 daughter, the complainant in this case, up to telling
14 falsehoods, and that's what happened here, your Honor.

15 All of that being said, to remove Ray Ross
16 from his family and from society will have a
17 deleterious effect. It will only harm.

18 Now, Mr. Perri asked about an order of
19 protection. Of course we have no objection to an order
20 of protection. There has been an order of protection
21 in effect in this case going back to the beginning, in
22 April of 2015, when my client surrendered himself at
23 the precinct. And from then until now, 14 months
24 later, there has never been any allegation that there
25 has been any contact between Mr. Ross and the

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1 complainant in this case, and there never will be, your
2 Honor.

3 There is no allegation of it. There is no
4 reason for it. Mr. Ross has no contact with those
5 folks, and they can and should feel comfortable living
6 the rest of their lives, that they came to open court,
7 they told a story, and that's what it was, a story. It
8 was not true, your Honor.

9 And, again, you need to think of the
10 two-by-two box that they learn sometimes the first day
11 of law school, that maybe truths were told by
12 truth-tellers, maybe falsehoods were told by liars, and
13 maybe there is a combination. Maybe some truths were
14 told by liars and maybe some falsehoods were told by
15 truth-tellers. It was for the jury to decide, and now
16 it's for you for decide what the actual sentence will
17 be.

18 The order of protection, obviously, we have
19 no problem with that. Unfortunately for Mr. Ross, he
20 will be labeled as a sex offender for the rest of his
21 life under Megan's Law, SORA, as it's now called, and
22 he has to live with that, and that Scarlet letter will
23 follow him until the day he dies. And I explained to
24 him what that is and what his responsibilities will be,
25 and he understands and, frankly, hates that that is

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1 something that is being thrust upon him, but he
2 understands that is the result of the verdict in this
3 case.

4 But beyond that, with your Honor having the
5 opportunity to decide what, if anything, else will
6 happen, I would ask your Honor to consider what a hard
7 working man this person is. He's been working in
8 private sanitation for his entire career. He wakes up
9 long before dawn, and you heard testimony about that.
10 He's worked different shifts and he's ready, willing,
11 and able to work to stay out of jail.

12 And I ask you consider at this time, instead
13 of a jail sentence, that your Honor consider a
14 community service alternative, where this man, who is a
15 man who is part of his community -- I had ready to
16 testify his pastor, who was going to testify that this
17 man tithes. He gives 10 percent of his meager salary
18 to his church. He is active in his church. You heard
19 testimony sometime the complainant would attend church
20 with her aunt and with Mr. Ross.

21 You heard tons of testimony about Mr. Ross's
22 impact on his family, the positive impact on his entire
23 family and his extended family. So, your Honor,
24 consider a community service alternative to any type of
25 incarceration and to monitor him so that society and

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1 your Honor and the community can be certain that there
2 would be absolutely no future victims of anything at
3 all. Put him on probation. Let him be on probation.
4 Give him what we commonly call a split sentence with a
5 community service alternative. He's being punished.
6 His whole family has been torn apart.

7 Our view of what happened is, they were torn
8 apart because two sisters had a huge schism, those two
9 sisters being the paramour of Mr. Ross and the mother
10 of the complainant. And, unfortunately, the impact and
11 the mushroom cloud of that has now spread out to
12 involve the criminal justice system and all the people
13 heard from.

14 But now you can do what I would think would
15 be something that would solve society's thoughts about
16 what to do with Mr. Ross at this point after the
17 compromise verdict, as well as when the district
18 attorney asks for the maximum sentence on almost
19 everything that comes across their desk.

20 The question then becomes, well, who should
21 actually get that maximum sentence? This is not a man
22 who has been in and out of jail for the last 40 years.
23 This is a man who only now is being accused, let alone
24 convicted of anything. That's not the man who deserves
25 the maximum sentence.

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1 I'm sure you have had these conversations, as
2 did I when I was assistant district attorney, and
3 people say, well, what's the maximum sentence for X,
4 for a marijuana charge? Say the maximum is a year and
5 the person, you know, the fright comes into their face
6 and everyone else's. And that's the truth. The
7 maximum is a year, except that commonly there is a
8 progression of what happens as far as sentencing, and
9 that progression is seen within the district attorney's
10 offers of plea bargain and within the Court, the
11 Judge's decision of what sentencing should be.

12 So the plea -- set aside the thought that the
13 maximum sentence is anywhere near warranted in this
14 case, and think to yourself about the family involved,
15 the family that has been alleged to have been harmed,
16 and that there are convictions on the lesser counts of
17 being harmed.

18 They will never see or hear from Mr. Ross
19 again. You are assured of that by the order of
20 protection and you are assured of that by probation.
21 If there is any violation of that, there will be
22 immediately a criminal contempt charge and a violation
23 of probation, and Mr. Ross would be right back in front
24 of you and have to answer for that.

25 Let him work to stay out of jail. I ask you

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1 consider sentencing -- I believe 840 hours of community
2 service would be that six months of jail, which would
3 become -- two-thirds of that, I believe, is 120 days,
4 times seven, I believe is 840, if my math is correct.
5 I think that that's a reasonable sentence, that he stay
6 working to support his family. Let him stay as part of
7 his family.

8 I hope you have read the letters, some of
9 which I provided when sentencing was last on, some I
10 know I only provided a few minutes ago. But they all
11 say the same thing, that this is a man who is good for
12 his family, a man who is needed by these people. You
13 saw these people during the course of the trial.

14 Thank you very much for your judicious
15 thought process of listening to me, of listening to the
16 testimony back in February. Thank you for considering
17 these different types of sentences, being a mixed
18 sentence. And I thank you for now listening to
19 Mr. Ross, who would like to address you directly.

20 THE COURT: Thank you, Mr. Zerner.

21 THE CLERK: Mr. Ross, anything you wish to
22 say before the Court imposes sentence?

23 THE COURT: Mr. Ross, you can remain seated.
24 You show no disrespect by sitting and speaking.

25 THE DEFENDANT: Hello, your Honor. I just

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1 want to tell you that I just want leniency. I'm a man
2 that works, and me and my daughter just bought a house,
3 taking my grandkids, all these kids, and these things
4 that happened to me just blew me away.

5 I have a lot of people that need me, and I
6 take care of these people and they cannot handle the
7 debt and stuff that we are in. I have -- I take care
8 of them and want to continue doing that so that's my
9 future, going to a nursing home Sunday after church and
10 feeding people and go look out. These people needs me.
11 I just want to continue to do good and ask you for
12 leniency, your Honor.

13 And I have never been in trouble in my life.
14 These accusations is killing me. It tore me apart,
15 tore my family apart. I'm not that kind of person, and
16 I want to continue to help people and provide for my
17 family.

18 THE CLERK: Anything further, Mr. Ross?

19 THE DEFENDANT: No. No, sir.

20 THE CLERK: Then please give your attention
21 to the Court.

22 THE COURT: Thank you, Mr. Ross.

23 Have both counsel had the opportunity to
24 review the Probation Department's presentence report?

25 MR. PERRI: Yes, your Honor.

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1 MR. ZERNER: Yes, your Honor.

2 THE COURT: Any exceptions to that report
3 from either counsel?

4 MR. PERRI: No exceptions to the facts
5 reported in the report, your Honor.

6 MR. ZERNER: The only thing I would state,
7 your Honor, about the probation report is, Mr. Ross was
8 contacted by the author of the probation report on Good
9 Friday. Mr. Ross is a church-going person. He was
10 called about that on that holy day. He tried to
11 accommodate the schedule of the probation officer who
12 was writing that report by immediately going and
13 talking with her, and only after he had spoken to the
14 probation officer that then he contacted me.

15 Now, I think that all of us in this room
16 understand that a probation officer, somewhat like a
17 police officer, will sometimes just let a person talk
18 and let a person believe what the probation officer
19 thinks is best for the report or for the charges,
20 et cetera. Again, Mr. Ross stood before that probation
21 officer as someone who had never dealt with a probation
22 officer before. 40 years as an adult, never being
23 charged with a crime, never speaking to a police
24 officer, probation officer, anything. Then the report
25 was written.

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1 Frankly, Mr. Ross called me afterwards and
2 said, this is the nicest person. There is no way she's
3 going to recommend anything but being on probation, and
4 that's not what the report shows. And I think as an
5 educated reader, I understood that and I know you
6 understand that and I know Mr. Perri understands that,
7 but Mr. Ross did not a hundred percent understand who
8 he was speaking to or what he was saying to her.

9 All that being said, your Honor, again, based
10 on what I have put before your Honor, I'd ask you
11 sentence my client not to any jail time, but a
12 community service alternative. If your Honor does
13 think that jail time is the way to go, I ask it be
14 local so my client can receive visits from his family.

15 Again, this is a person who has never done
16 any jail time before. Please do not send him upstate.

17 THE COURT: Thank you.

18 Just so the record is clear, the Probation
19 Department's recommendation was for a probationary
20 sentence of five years with the special condition of
21 six months incarceration. The Court is not obligated
22 to follow that recommendation, but it accepts it and
23 considers it, as the Probation Department is an arm of
24 the Court, and the Court relies on the Probation
25 Department for its input and information that it

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1 provides.

2 A couple of things. The charges against
3 Mr. Ross are no longer allegations. The People proved
4 the allegations beyond a reasonable doubt, as shown by
5 the jury's verdict.

6 The jury was the judges of the facts. They
7 heard the testimony from the People, they heard the
8 testimony from the defense, and they made a decision.
9 They determined that Mr. Ross engaged in a course of
10 sexual conduct against a child in the second degree, as
11 well as endangered the welfare of that same child in
12 two distinct periods of time.

13 This Court is not retrying the case here.
14 This Court's responsibility is to impose an appropriate
15 sentence for the conduct that has been proved and
16 determined by the judges of the facts, the jury in this
17 trial.

18 Certainly Mr. Ross had every right to go to
19 trial, to demand that the People prove his guilt beyond
20 a reasonable doubt, to be able to face his accuser and
21 have his accuser face him. The Court takes no
22 consideration with Mr. Ross exercising his right to go
23 to trial. But having presided at the trial, the Court
24 heard the testimony from all interested.

25 Mr. Zerner, you say this is the defendant's

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1 first time in the criminal justice system at 56 years
2 old. The Court recognizes that, but it also recognizes
3 the lifelong impact to the victim in this case,
4 particularly the victim, but her mother as well.

5 Indeed, many sex offenders never have been
6 charged with a crime prior to being arrested and
7 charged and convicted of a sex offense. We are all
8 shocked and surprised, how can that person do that? I
9 couldn't believe it. But it happens over and over, day
10 after day, year after year.

11 The victim in this case -- and she's not a
12 complainant, she's not an alleged, she's a victim --
13 she was a young girl, less than 13 years old, trying to
14 learn about herself, coming from a dysfunctional
15 family -- that was uncontradicted -- trying to learn
16 about her femininity, her womanhood, trying to be
17 loved.

18 Mr. Ross, you took that away from her. You
19 took it away from her family. The testimony revealed
20 you pitted the victim -- and I won't use her name,
21 because she's a child, even though it's been mentioned
22 here -- you pitted her against her mother. I don't
23 care who that lady was or what she was, it was her
24 mother.

25 In the text messages, the victim wrote you

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1 were a dad to her. She relied on you. She needed you,
2 just like many other people needed you.

3 And I heard all that testimony. You are a
4 caring, giving person, taking care of everybody that
5 needs to be taken care of. But you violated the most
6 innocent person in that whole relationship, that whole
7 extended family, in a way that she can never recover.

8 They will never see you again, you will never
9 see them again, but you know what, the victim lives
10 with it and will live with it every day. And I can
11 just imagine her laying down there in the bed at night
12 and seeing you in her mind and her heart and soul and
13 crying about what happened.

14 There was no reason for her to make any of
15 that testimony up when she sat here at trial. You,
16 quite frankly, were the glue that held everybody
17 together by working hard and paying the bills, with all
18 the other turmoil that was going on in the family, and
19 by her testifying here at trial, the victim knew that
20 all that was going to be gone, that mushroom cloud, as
21 your attorney has described it, appropriately so. But
22 that's what happened because of your conduct.

23 I don't know what happened. You knew her
24 since she was born. You lived at the address for 15
25 years. But then as she's transforming into a woman,

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1 you groomed her. You were her favorite, you said. She
2 was your favorite, you said in the text. And then you
3 used her needs against her to secure her loyalty, her
4 clarinet, her phones, things that she needed as a child
5 to be a part of the school, to be a girl, to be
6 welcomed among her friends and be part of the crowd.

7 You used her, Mr. Ross, in a way that no
8 child should be used, and because of that and in
9 fulfillment of my obligation as a judge, as a judge of
10 the law, and my obligation to impose an appropriate
11 sentence, I'll do so now.

12 Your family is going to be impacted, yes, and
13 they are going to suffer too, but I can't worry too
14 much about your family. I balance that. I balance it
15 with what happened to the victim here all by herself,
16 alone.

17 And your family was caring and loving of her
18 as well. They treated her like a sister or a niece,
19 but they had no idea what was going on in that truck on
20 the way home and the way to, and that's why it's a
21 shock and a surprise, and everybody says -- and I read
22 all the letters -- he's helped us financially,
23 emotionally, and been generous with his time. I'm in
24 agreement with all that.

25 What you did was wrong and cruel and

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1 violative and everlasting on the psyche, the mind, and
2 the ability of that young victim to love another person
3 as she grows into adulthood.

4 People have an order of protection?

5 MR. PERRI: Yes, your Honor.

6 THE COURT: Could I have it?

7 MR. PERRI: Yes, your Honor.

8 THE COURT: Mr. Ross, you appear before the
9 Court for sentencing for the crimes of course of sexual
10 conduct against a child in the second degree, a
11 violation of Penal Law Section 130.80 subdivision 1B, a
12 D violent sex offense felony. It has a maximum
13 sentence range of two to seven years determinate
14 sentence.

15 As well as, under Count 3, endangering the
16 welfare of a child, and Count 4, the same A misdemeanor
17 crime, violations of Penal Law Section 260.10
18 subdivision 1. Each of those has a maximum sentence of
19 one year in the local jail.

20 You stand before the Court for sentencing for
21 those crimes for which you stand convicted after trial,
22 under Counts 2 through 4 respectively, under indictment
23 1050N of 2015, and in satisfaction thereof.

24 Therefore, under Count 2, it is ordered and
25 adjudged that you are hereby sentenced to a determinate

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1 term of imprisonment of three years as a violent felony
2 sex offender.

3 As to Counts 3 and 4, you are sentenced to
4 one year incarceration under each conviction.

5 All sentences shall run concurrently with
6 each other. Therefore, you shall be committed to the
7 custody of the New York State Department of Corrections
8 and Community Supervision, there to be dealt with in
9 accordance with the terms of your sentence.

10 In addition, I am directing that you be
11 subjected to five years post-release supervision under
12 Count 2.

13 There is a mandatory surcharge you must pay
14 of \$300, a crime victim assessment fee of \$25, a DNA
15 fee of \$50, a sex offender registration fee of \$50, and
16 a supplemental sex offender fee of \$1,000.

17 I'm issuing a full and permanent order of
18 protection in favor of the victim in this case, the
19 individual who testified at trial. Her name is set
20 forth in the order of protection.

21 I now hand it to you for your acknowledgment
22 that you have been advised in court of the issuance and
23 contents of the order and you have personally been
24 served a copy of this order in court.

25 This is a court order. It cannot be modified

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1 or vacated unless done so by a judge of this court or a
2 court of competent jurisdiction. Any violation of that
3 order of protection will result in additional criminal
4 charges being lodged against you.

5 This order will remain in force and effect
6 until the date set forth in the order.

7 THE CLERK: Let the record reflect service
8 upon the People of two copies of the order of
9 protection.

10 People acknowledge receipt?

11 MR. PERRI: People acknowledge receipt.

12 THE CLERK: A copy is being served on counsel
13 and your client. Acknowledge receipt of that, and your
14 client, Mr. Zerner?

15 MR. ZERNER: Yes, acknowledge receipt.

16 THE CLERK: Mr. Ross, listen up, sir. You
17 have the right to appeal from this sentence and these
18 proceedings. If you wish to appeal, you must file your
19 notice of appeal with the clerk of this court within 30
20 days.

21 If you cannot afford a lawyer or the minutes
22 of these proceedings, you may make application to the
23 Appellate Division, which will, upon being satisfied
24 you cannot afford the same, order an attorney be
25 appointed and the minutes provided without any charge

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1 to you.

2 Your lawyer is directed by the Court to
3 advise you in full and take the necessary steps as
4 indicated by you in this regard.

5 That concludes the proceedings. Officers,
6 please take charge.

7 THE COURT: Good luck, Mr. Ross.

8 MR. ZERNER: Your Honor, I ask the bail be
9 exonerated at this time. I think it does happen by
10 operation of law.

11 THE COURT: Bail is exonerated.

12 MR. ZERNER: Thank you very much.

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The foregoing is hereby certified to be a true and
accurate transcript of the proceedings as transcribed
from the stenographic notes.

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LISA M. WINKLER
Senior Court Reporter

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